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September 23, 2020

VIA ECF

Honorable J. Paul Oetken  
United States District Judge  
Southern District of New York  
United States Courthouse  
40 Foley Square  
New York, NY 10007

*United States v. Kukushkin, et al. 19 CR. 725 (JPO)*

Dear Judge Oetken:

We write on behalf of all defendants to seek modification of the current motion and trial schedule, in light of the superseding indictment filed last week.

On or about April 14, 2020, the parties submitted a joint application to adjourn the then-in place motion and trial schedule given the disruptions caused by the COVID-19 pandemic and the government's timeline for seeking a superseding indictment. The parties agreed upon a joint proposed schedule with the understanding that a superseding indictment would be filed on or before July 31, 2020, and that the production of discovery would continue through and immediately following that date.

No doubt as a result of the continued disruptions occasioned by the COVID-19 pandemic, the government's timeline for seeking a superseding indictment and providing discovery was further delayed. As the Court is aware, the superseding indictment was only returned last Thursday, September 17, 2020, approximately seven weeks later than expected. With respect to discovery, no discovery has been provided to the defense since March 28, 2020, and the government has indicated that it will begin providing new discovery on a rolling basis within the next week to ten days but that it does not anticipate that discovery will be complete

for another month or more. The defense requires additional time to review these materials before motions can be filed. Moreover, the ability of defense counsel to meet with our clients, review discovery, and prepare our defense remains hampered by pandemic-related travel and social-distancing restrictions. This is particularly so given that all defendants reside in states with high COVID-19 infection rates and require a 14-day quarantine period. Finally, there is no prejudice occasioned by the defense's proposed schedule, particularly since the court's current COVID-19 restrictions prevent this matter from proceeding to trial with all four defendants on the schedule that exists currently.

Accordingly, and given the ongoing uncertainty surrounding any timeline for a relaxation and removal of restrictions occasioned by the COVID-19 pandemic, the defendants propose to adjourn the current schedule as follows:

- Pretrial motions due by December 8, 2020; responses due by January 8, 2020; and replies due by January 25, 2021.
- Pretrial conference to remain scheduled for November 30, 2020 and a subsequent pretrial conference to be scheduled for February 1, 2021.
- Trial adjourned from February 1, 2021 to March 8, 2021 or a date thereafter convenient to the Court.

The defendants consent to an exclusion of time under the Speedy Trial Act through the new trial date in the interests of justice pursuant to 18 U.S.C. § 3161(h)(7)(A) in order to allow the parties time to (i) continue producing and reviewing discovery; (ii) prepare and respond to pretrial motions; and (iii) prepare for trial.

In light of the foregoing, the defendants respectfully request that the Court modify the current schedule as outlined above. We thank the Court for its consideration.

Respectfully submitted,

/s/ Gerald B. Lefcourt  
Gerald B. Lefcourt

cc: All counsel (via ecf)